November 25, 2005

Mr. Gary Guarino, Assistant U.S. Attorney
United States Department of Justice
222 West 7th Ave., #9, Room 253
Anchorage, AK 99513-7567

re: *Todd Allen v. United States*
Case No. A04-131 CV (JKS)

Dear Mr. Guarino,

Thank you for asking me to review the Todd Allen case. I am a board certified Family Nurse Practitioner with Emergency Room experience as a Registered Nurse and as an Advanced Nurse Practitioner. My educational and employment history is as listed in my current Curriculum Vitae.

The records I have reviewed consist of Mr. Allen's medical records, plaintiff's responses to the United States 1st and 2nd discovery requests, and depositions of Kimberly Allen, Patricia Ambrose RN, Donna Fearey ANP, Susan Edwards LPN, Dr. Susan Dietz, Dr. Richard Brodsky, Dr. Loretta Lee, and Dr. Tim Scheffel. I talked briefly to Donna Fearey by telephone. The medical texts I reviewed were Primary Care Medicine by Gorroll & Mulley, Pathophysiology by McCance & Huether, and The Merck Manual (see complete references cited below).

I have reviewed the records regarding the Todd Allen case and have given consideration to the allegations that the evaluation and treatment of Mr. Allen was below the standard of care. Although Mr. Allen died later in the day, the early morning urgent care visit with Donna Fearey ANP at Alaska Native Medical Center 4/19/03 seems to have been generally appropriate.

The ANMC urgent care notes reflect a seemingly unremarkable encounter with a patient complaining of right ear and jaw pain that had increased during his drive from Valdez to Anchorage. The nurse practitioner documented that Mr. Allen wanted to be sure his ear was not infected. He also complained of nausea that was preventing him from taking his pain medicine.

Mr. Allen was described by triage nurse Pat Ambrose as sitting at ease, and by Donna Fearey as alert male in no acute distress. His vital signs were stable and he had no fever. His ear, nose and throat exam was unremarkable. His facial exam showed click and tenderness of bilateral temperomandibular jaw joints. Of significance in this case is that his neck was supple. Heart and lungs were unremarkable. There is no evidence that the patient was vomiting during this visit. Notation was made that his past medical history consisted of a mandible fracture and that he had a pain contract.

Mr. Allen had complained of head/ear/jaw pain on prior visits. On 2/13/01 he had tender right mandible up to preauricular area. On 4/22/01 he stated he was hurting in his jaw, head and ears. On self-completion of chronic pain contract of 1/11/03 he noted he had pain right side head jaw joint area/inside ear area due to TMJ pain from broken jaw. His pain was shown to be bilateral head, jaw joint area, ear area, and back of neck. It was made worse by long days of laboring work, cold freezing weather, traveling through mountains. This description is consistent with Mr. Allen's presentation to Donna Fearey on 4/19/03. On 1/23/03 Mr. Allen complained of increased pain right jaw, sharp bilateral ear pain, headache, tender scalp in temporal area. It is interesting to note that this visit consisted only of examination of jaw and ears, x-rays of TMJ and referral to Ear, Nose and Throat Department for evaluation. He was given a new prescription for additional medication for breakthrough pain.

History of the 4/19/03 urgent care visit could have been more detailed. In retrospect it would have helped to know if he had a headache or if ears/head pain documented by the triage RN was referring to the ear/jaw pain documented by Donna Fearey. Timing of onset, intensity, and if different from usual head/ear/jaw pain would have been helpful to know.

Based on the complaint of nausea further history regarding nausea and vomiting would have been helpful to obtain as well as doing an abdominal exam. Vomiting may indicate a host of gastrointestinal problems (gastritis, acute gastroenteritis, appendicitis, gall bladder disease, etc.) as well as heart attack, increased intracranial pressure, or metabolic disease such as diabetes. When nausea and vomiting exist in the absence of abdominal pain one could question serious illness, especially if accompanied by neurological signs such as gait disturbances or stiff neck. Mr. Allen had a supple neck without apparent rigidity and no described neurological involvement.

Based on the history and findings documented, I do not think a neurological examination was indicated – but again, in hindsight, it may have helped to more clearly rule out or pick up significant pathology.

According to the texts I have reviewed (see references cited below), less than 1% of headaches are due to serious intracranial disease. These headaches are usually described as persistent, severe, sudden onset, and/or different from usual. Early symptoms of subarachnoid hemorrhage may include episodic headaches, transient changes in mental status or level of consciousness, nausea and vomiting, focal neurological symptoms such as vision and/or speech disturbances, cranial nerve palsies, and stiff neck. Late symptoms of subarachnoid hemorrhage, usually indicating a ruptured vessel, include sudden throbbing explosive headache, nausea and vomiting, vision changes, motor deficits, and loss of consciousness.

To reiterate and add significant information, Mr. Allen was described as being in no acute distress, sitting at ease, his neck was supple, and he was apparently not vomiting. Mr. Allen gave the history to the nurse and nurse practitioner, his wife did not interject any information, and he documented on his HIPPA form that he had an ER visit for pain all night "R" ear bad. This information indicates to me that he was coherent, and that he was suffering from ear pain. According to the documentation by Donna Fearey, Mr. Allen did not seem to meet the criteria for even grade I subarachnoid hemorrhage which consists of being neurologically intact, having a mild headache and neck rigidity.

TMJ is known to be a cause of persistent headache and face pain. There is chronic dull aching unilaterally to the jaw, behind eyes and ears, and down the neck to shoulders. Jaw pain, clicking and pain with opening mouth are typical signs.

In my opinion the management of this patient seems appropriate. He presented as having an exacerbation of a chronic problem with physical findings that appeared to confirm his complaints. There is no indication from the history or exam findings that this patient should have been referred to a physician in the Emergency Department. Urgent referral would have been indicated if the patient had complained of acute onset of severe headache with signs of meningeal irritation (neck stiffness, sensitivity to light, blurred vision, irritability, restlessness, and low grade fever). In a patient with chronic headache and normal neurological findings the probability of having a positive CT scan is small. Lacking a worrisome history or overt neurological findings CT appears unneeded. CT is indicated for persistent headache worsening with time or when there is a change in the character of the headache. Mr. Allen was discharged with written instructions that include "return to ED/UCC if symptoms worsen or do not improve" and Mrs. Allen's deposition says Mr. Allen was advised to return if his pain persisted or became worse.

Thank you for asking me to review this case. Information regarding medical literature I have reviewed is listed below. My current CV is attached. I have not been deposed or testified previously in any case. Compensation was requested at $150/hour. I have spent approximately 22 hours to date reviewing records and medical literature, discussing the case with you, and preparing this report.

Respectfully,

Diane Duntze FNP

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Registered Nurse/ Advanced Nurse Practitioner

Education: *University of Alaska – Anchorage*
Masters of Science, Nursing Science, May 2001
Specialty: Family Nurse Practitioner
Thesis: The health experience of individuals living in a rural Alaskan setting
(United States Copyright Office, Library of Congress)
Alaskan Exposure Program Preceptorship: Two weeks in Akutan, AK working with a Nurse Practitioner in a clinic run by Eastern Aleutian Tribes

Adelphi University, Garden City, NY
Bachelor of Science, Nursing Science, January 1978

Pilgrim State Hospital, Brentwood, NY
Diploma, Registered Nurse, June 1975

Massapequa High School, Massapequa, NY
June 1970

Honors: Sigma Theta Tau Nursing Honor Society
Phi Kappa Phi Honor Society

Certifications: Board Certification as a Family Nurse Practitioner by the American Nurses Credentialing Center

Memberships: Alaska Nurse Practitioner Association

Licensing: State of Alaska, Registered Nurse #11406
State of Alaska, Advanced Nurse Practitioner #686
Prescriptive authority for legend drugs and controlled substances, current DEA number
Specialty: Family Health
Medicare Provider
Medicaid Provider

Employment: *Cross Road Medical Center, Glennallen, AK 99588*
Family Nurse Practitioner, 6/01 to present
Diagnosis, treatment, and prescriptions – infant to elderly, chronic and acute Care, prenatal care, preventive health (well child exams, annual exams, screening)
Clinic, Emergency Room, Observation Unit admissions

Mt. Sanford Tribal Consortium, Gakona, AK 99586
Family Nurse Practitioner, 10/01 to present
Work 16 hours a week on contract between Cross Road Medical Center and Mt. Sanford Tribal Consortium providing FNP level services in Community Health Aide Clinics in Chistochina Village and Mentasta Lake Village.
Direct patient care as above, case management, clinic administration, Coordinator/Instructor (CI) for Community Health Aides.
Prescribing privileges at Alaska Native Medical Center.

North Country Clinic, Mile 53 Tok Cutoff
Family Nurse Practitioner, 10/02 to present
Sole provider in this small satellite clinic of Cross Road Medical Center.
Direct patient care as above, clinic administration, home visits
CLIA certificate
Medicaid Pharmacy Dispensing License

United States Attorneys Office, Anchorage, AK
Family Nurse Practitioner, Consultant/expert witness, 7/02-8/02

Cross Road Medical Center, Glennallen, AK 99588
Registered Nurse, 6/86-8/86, 3/87-8/99
Clinic, Emergency Room, Observation Unit

Peninsula Home Health Care, Palmer, AK
Registered Nurse, 3/95-11/97
Home Visits for acute care

References: Dr. G. Bert Flaming, Cross Road Medical Center, Box 5, Glennallen, AK 99588
Dr. Megan LeMasters, Alaska Native Medical Center, 4315 Diplomacy Drive, Anchorage, AK 99508
Dr. Barbara Berner, University Alaska – Anchorage, School of Nursing, 3211 Providence Drive, Anchorage, AK 99508
Margaret Baldwin, CNM, Alaska Native Medical Center, 4315 Diplomacy Drive, Anchorage, AK 99508